

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0162P

Gross and Adjusted Gross Income Tax

Calendar Years 1991, 1992, 1993, and Fiscal Years Ended 01/01/95, 12/31/95, and 05/13/96

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration**—Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is incorporated in Pennsylvania and has no Indiana business locations. It employs approximately twenty-six people in the state of Indiana that have company owned cars. Indiana employees are responsible for sales, service, installation, and performing preventative maintenance under contracts. Equipment and repair parts are shipped to Indiana customer locations for use by its service people in repair and installation.

Taxpayer protests the penalty and states the assessments in the current audit do not result from any willful disregard for tax laws or regulations, but from the application of RAR adjustments and the timing of Net Operating Losses in connection with amending returns. Taxpayer further states it makes every effort to maintain proper compliance and prepare accurate reports.

I. **Tax Administration**—Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for failure to report RAR adjustments for 1991, 1992, or 1993 as required by 45 IAC 3.1-1-94 and from failure to include all Indiana income in Gross Income for Fiscal Years 01/01/95, 12/31/95, and 05/13/96, the issue which was in the prior audit dated May 6, 1996.

Taxpayer, in a letter dated March 16, 2000 protested penalties assessed because there was no negligence or intentional disregard of Indiana tax regulations. Taxpayer further states the assessments relate from the application of RAR adjustments and the timing of NOL's in the connection with amending returns.

Taxpayer, however, failed to report RAR adjustments as required under 45 IAC 3.1-1-94 for 1991, 1992, and 1993. Taxpayer failed to include both high and low rate income in gross income as required, which was the issue in a prior audit.

Taxpayer has not provided reasonable cause for its failure to report the RAR adjustments and its failure to include all of its gross income at both the high and low rates of tax. The Department finds that a negligence penalty is proper.

FINDING

Taxpayer's protest is denied.